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March 16, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

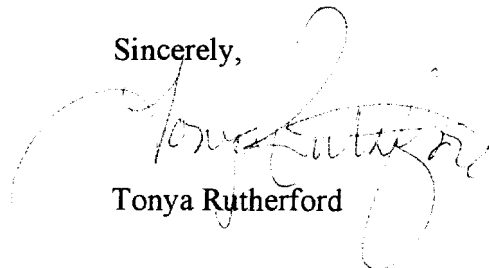
Re: Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas. Including Tribal and Insular Areas, CC Docket No. 96-45/ Petition for Agreement with Change in Definition of Rural LEC Service Areas in the State of Arizona

Dear Ms. Salas:

Enclosed please find an original and 4 copies of the Comments of Century Tel, Inc., in the above-referenced proceeding.

Please stamp and return to me the copy provided for this purpose. If you have any questions regarding this matter, please call me at (202) 637-1023

Sincerely,


Tonya Rutherford

cc: Richard D. Smith
International Transcription Services, Inc. (with diskette)

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Before the
Federal Communications Commission
Washington, D.C. 20554

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MAR 16 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)
)
Petition for Agreement with Change)
in Definition of Rural LEC Service Areas)
in the State of Arizona)

COMMENTS OF CENTURYTEL, INC.

CenturyTel, Inc. ("CenturyTel"), through its attorneys, hereby offers the following comments on the above-captioned Petition for Agreement with Change in Definition of Rural LEC Service Areas in the State of Arizona¹ ("Petition") released by Public Notice on February 15, 2001.²

I. INTRODUCTION

CenturyTel urges the Commission to require that universal service support for Native American lands within the Arizona 3 Service Area ("Service Area") be disaggregated by individual wire center. As described below, because disaggregation of high-cost support is essential in furthering the universal service goals of Section 254 of the Communications Act of 1934, as amended ("Act"),³ CenturyTel urges the Commission, as a condition of its approval of the Petition, to require the disaggregation of high-cost support within the Service Area affected by the Arizona Corporation Commission's ("ACC") order. Pursuant to Section 214(e)(5), Smith

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Petition for Agreement with Change in Definition of Rural LEC Service Areas in the State of Arizona (filed Feb. 1, 2001).

² *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Public Notice, DA 01-409 (rel. Feb. 15, 2001) ("Public Notice").

³ 47 U.S.C. § 254.

Bagley, Inc., (“SBI”) seeks the Commission’s agreement with the change in rural LEC service area definitions approved by ACC.⁴ CenturyTel strongly urges the Commission to require disaggregation by individual wire center as a condition of its support of the any newly defined Service Area.

CenturyTel, headquartered in Monroe, Louisiana, is a leading provider of integrated communications services to rural markets. CenturyTel provides a variety of high-quality communications services to nearly 3 million customers in rural communities in 21 states, including local exchange and advanced services, wireless service, long distance, security monitoring, information services, and broadband and dial-up Internet access. CenturyTel serves fewer than 2000 lines in Arizona. Overall, CenturyTel’s rural telephone companies provide local exchange telephone service to 1.8 million access lines, but approximately half of its exchanges have fewer than 1,000 access lines each. Very few of its exchanges have greater than 10,000 access lines. All of CenturyTel’s operating companies meet the statutory definition of a “rural telephone company.”⁵

II. DISCUSSION

For areas served by a rural telephone company, Section 214(e) of the Act provides that the company’s service area will be its study area “unless and until the Commission and the States, after taking into account the recommendations of a Federal-State Joint Board . . . , establish a different definition of service area for such company.”⁶ On December 15, 2000, ACC designated SBI as an eligible telecommunications carrier (“ETC”) on Native American lands

⁴ 47 U.S.C. § 214(e)(5).

⁵ 47 U.S.C. § 153 (37).

⁶ 47 U.S.C. § 214(e)(5).

within the Service Area,⁷ and proposed that SBI be granted an ETC service area “consistent with that portion of its existing cellular service contour,” which includes coverage on Native American Reservations in Navajo, Apache and Gila counties in Arizona.⁸ While CenturyTel does not oppose the newly defined Service Area,⁹ it strongly urges the Commission to fully consider the impact of SBI’s designation as an ETC on universal service support in the Service Area. In particular, if disaggregation of support by individual wire center is not required, SBI’s entry into the market could compromise universal service goals in Arizona.

A. The Commission must ensure sufficient universal support to high-cost areas even as competition emerges.

While Congress recognized that the emergence of competition in rural areas could bring substantial benefits to rural consumers, it also sought through specific measures to preserve and advance universal service in rural America.¹⁰ The 1996 Act specifically provides that “[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high[-]cost areas, should have access to

⁷ *In the Matter of Application of Smith Bagley, Inc. for Designation as an Eligible Telecommunications Carrier Under 47 U.S.C. 214(e)(2) and A.C.C. R14-2-1203*, Docket No. T-02556A-99-0207, Decision No. 63269, Order, (rel. Dec. 15, 2000) (“ACC Order”) at 16.

⁸ ACC Order at 16-17.

⁹ CenturyTel notes that SBI represents that it is “not licensed along LEC study area boundaries, and is therefore unable to obtain FCC authority to provide wireless service to the entire LEC study areas of Navajo, Citizens, and CenturyTel.” ACC Order at 9. While it is true that SBI’s license to provide service does not correspond with the LEC study area boundaries, CenturyTel disagrees with the representation that SBI is “unable to obtain FCC authority to provide wireless service” to the entire LEC study area. Rather, pursuant to section 214(e)(1) of the Act, SBI could build out its own facilities or resell another carrier’s services in those portions of the study area where SBI does not provide service.

¹⁰ *Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier In the State of Wyoming*, DA 00-2896, 2000 FCC LEXIS 6745, (rel. Dec. 26, 2000) (citing 47 U.S.C. § 214(e)(6) and stating that before designating an additional ETC for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest).

telecommunications and information services....”¹¹ By enacting Section 254(b), Congress sought to ensure that high-cost areas receive *sufficient* support, even as competition develops. Thus, when evaluating whether to support a state commission’s proposed change of rural LEC service areas when a competitive ETC seeks to enter the market, the Commission must fulfill its statutory obligation to further universal service goals in rural and high-cost areas.¹²

The Communications Act requires that universal service support for all carriers be specific, predictable, explicit and *sufficient* to ensure reasonably comparable services and rates between urban and rural areas.¹³ CenturyTel urges the Commission to disaggregate high-cost support for the newly defined Service Area by individual wire center, as a condition of its support of the redefinition. When support is disaggregated into smaller geographic areas, relatively higher-cost areas receive greater support that more accurately reflects these higher costs. Similarly, relatively lower cost areas receive less support to reflect its wire centers’ lower costs. Thus, disaggregation of support by individual wire center will ensure that higher-cost wire centers are properly aligned with high-cost support. In this way, disaggregation furthers the Act’s universal service goals by appropriately allocating support only to those areas for which support was intended.

On the other hand, if support is not disaggregated, a competitive ETC could receive a windfall by competing only in relatively low-cost wire centers within an otherwise high-cost study area, and receive support based on that higher average cost within the study area. Already troublesome cream-skimming could worsen as non-ILEC ETCs choose to enter only in areas where high-cost support creates a relative windfall. Conversely, as the ILEC

¹¹ 47 U.S.C. § 254(b)(3).

¹² *Id.*

¹³ 47 U.S.C. § 254(b),(e).

lost these low-cost lines, it would be less able to maintain affordable rates and high-quality services within its remaining territory.

To avoid cream-skimming and other negative consequences, the Commission has permitted disaggregation of support in the past,¹⁴ and should do so here also. With respect to high-cost support for non-rural carriers, the Commission has recognized that, if support were not disaggregated, the same amount of federal support would be available for any line served by a competitor within the state. The Commission specifically noted that “this result would create uneconomic incentives for competitive entry, and could result in support not being used for the purposes for which it was intended, in contravention of Section 254(e).”¹⁵ As a part of the Rural Task Force Plan, the Commission currently is considering a similar proposal to disaggregate high-cost support for rural carriers, which, among other things, will ensure that high-cost support is appropriately directed to customers in high-cost areas.¹⁶

With respect to tribal land areas, it is particularly important that high-cost support be appropriately directed to the higher-cost wire centers. Statistics reflecting low telephone subscribership in tribal lands demonstrate “that existing universal service support mechanisms are not adequate to sustain telephone subscribership on tribal lands.”¹⁷ The

¹⁴ *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregating Portable Federal Universal Service Support*, Memorandum Opinion and Order, 15 FCC Rcd 9921, 9929, ¶ 12 (1999) (finding that disaggregation of support within study area minimizes the potential for “cream skimming”). See also *Access Charge Reform*, Sixth Report and Order, 15 FCC Rcd 12962, 13053, ¶ 211 (2000) (permitting disaggregation of interstate access universal service support by cost zone).

¹⁵ *Federal-State Joint Board on Universal Service*, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432, 20471, ¶ 71 (1999).

¹⁶ *Federal-State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96-45, FCC 00J-4 (rel. Dec. 22, 2000) (“Joint Board Recommended Decision”); Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service (adopted Sept. 22, 2000).

¹⁷ *In the Matters of Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Petitions for Designation as an Eligible Telecommunications Carrier and for Related Waivers to Provide Universal Service*, Twelfth Report and

characteristic obstacles of low income, high costs, and low penetration all converge within tribal lands to make subscribership levels even more fragile than they are in other rural areas.

Disaggregation of support so that high-cost support is aligned with the highest-cost exchanges within a rural telephone company's study area will help to preserve universal service as competitive ETCs emerge, and will ultimately promote telecommunications subscribership and infrastructure deployment within American Indian tribal communities.

As described above, even as competition emerges in rural and high-cost areas, particularly in tribal lands, the Commission must actively ensure that the Act's universal service requirements are met – that is, support must be specific, predictable, explicit and *sufficient*. The Commission must not - in its desire to promote local competition - threaten the integrity of the universal service support mechanisms. Rather, to ensure sufficient universal service support to the Native American lands within the Arizona 3 Service Area, the Commission should disaggregate support for the Service Area by individual wire center.

It is unclear from the Commission's Public Notice what modifications, if any, the Commission proposes for CenturyTel's service area as defined in Section 54.201. The ACC Order does not specify any changes to CenturyTel's service area; however, the Petition and the Public Notice make references which suggest that the ACC Order proposes to alter CenturyTel's service area.¹⁸ To the extent that any modification of CenturyTel's service area would disaggregate universal service support by individual wire center, CenturyTel supports this proposal; however, it is unclear whether the Public Notice and the Petition contemplate more sweeping changes.

Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12208, ¶ 2.

B. The Commission must ensure that only service offerings that meet the definition of universal service are supported.

In addition to redirecting high-cost support to those areas for which support was intended, the Commission also must act quickly to ensure that support is provided only for those service offerings that meet the definition of supported services. The Commission has previously acknowledged the importance of setting a minimum level of local usage that an ETC must provide to customers as part of a basic service package;¹⁹ however, the Commission has never quantified what the *minimum* local usage amount should be in order to qualify for universal support.²⁰ As CenturyTel has pointed out in prior comments in this docket, wireless carriers often have rate plans that, at the low end, provide little or no local usage.²¹ Without a minimum local usage, wireless carriers may be able to maximize support payments by winning many customers with “free” or nearly free monthly access while minimizing the cost of service by discouraging its use through extremely high per-minute usage charges.

SBI, for example, represented to ACC in the state proceeding that it plans to provide 30 minutes of free service per month throughout its network, which translates roughly into *one minute of local usage per day*.²² SBI’s proposed plan to offer analog wireless service initially and digital coverage in the future pales in comparison to the fixed wireless services of

¹⁸ See, e.g., *Public Notice* at 3 (stating that “[ACC] therefore proposed to redefine the service areas of Navajo, CenturyTel, and Citizens . . .”); *Petition* at 3, (stating that SBI and ACC seek to the Commission’s approval to *define the service areas of the rural LECs* operating in SBI’s designated ETC service area).

¹⁹ *Federal-State Joint Board On Universal Service*, Report and Order, 12 FCC Rcd 8776, 8814, ¶ 69.

²⁰ The Commission issued a Further Notice on the level of local usage that should be included in the definition of universal service, but has not yet issued an order resolving this issue. *Federal-State Joint Board on Universal Service; Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, Further Notice of Proposed Rulemaking, 12 FCC Rcd 18514 (1997). CenturyTel urges the Commission to quickly resolve this issue.

²¹ CenturyTel Comments in *Federal-State Joint Board on Universal Service: Promoting Deployment and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45 (filed on Dec. 17, 1999).

²² ACC Order at 6.

Minnesota Cellular, which the Minnesota Public Service Commission (“MPSC”) recently approved as an ETC.²³ In addition, the MPSC required Minnesota Cellular to file a tariff for its universal service package offering that would encompass “at least one package which includes *both* unlimited local usage or the minimum level of local usage set by the FCC and a price that does not exceed 110% of the current rates of the incumbents.”²⁴ Unlimited local usage or service priced at rates comparable to the incumbent’s enables the consumer to avoid additional per-minute fees and ensures that the consumer receives the benefits universal service is designed to promote. The Commission should follow the MPSC’s lead.

If the Commission, however, were to allow SBI’s paltry one-minute-per-day minimum local usage in the instant petition, it would be setting precedent that would permit a wireless provider to take advantage of support payments by luring customers with low monthly access rates while actually offering service that is too expensive for customers to afford.²⁵ Indeed, it is far from clear that the universal service fund was intended to support service of this type. Failure to establish minimum local usage amounts could deplete universal support at the expense of other supported services.

The Commission should quickly resolve the critical issue of minimum local usage to ensure that only service offerings that meet the definition of universal service are

²³ *In the Matter of Minnesota Cellular Corporation’s Petition for Designation as an Eligible Telecommunications Carrier*, Order Granting Preliminary Approval and Requiring Further Filings, Docket No. P-5695/M-98-1285, (rel. Oct. 27, 1999) (“Minnesota Order”).

²⁴ Minnesota Order at 22.

²⁵ Indeed, the Commission may have already begun to set precedent that threatens the integrity of the universal service fund. In at least two instances, the Commission recently has granted wireless carriers ETC status without analyzing whether the local usage amounts proposed by the carriers are consistent with universal service goals. See *Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, DA 00-2896 (rel. Dec. 26, 2000); *Federal-State Joint Board on Universal Service; Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier in the State of Delaware*, DA 00-2895, (rel. Dec. 26, 2000).

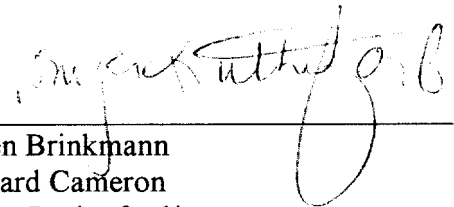
supported. Otherwise, universal service goals could be frustrated by the proliferation of wireless ETCs, all demanding support for services that do not advance the Commission's universal service goals.

III. CONCLUSION

For the foregoing reasons, CenturyTel recommends that the Commission require disaggregation of support by individual wire centers in the Service Area and promptly define the amount of minimum local usage required for a service to receive support.

Respectfully submitted,

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